IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 4698 of 2005

Between:

Ponuru Diwakar Subramanyam S/o. Late Venkatramaiah
State Bank of India Branch, Panyam, Kurnool District.

..... PETITIONER

AND

1 The Collector & Dist. Magistrate, Kurnool District.
2 The Commissioner, Tribal Welfare Department,

Masab Tank, Hyderabad.
3 The Branch Manager, State Bank of India, Panyam,
Kurnool District.
4 The Government of Andhra Pradesh, Rep. by its Principal
Secretary, Tribal Welfare Department, D-Block,
Secretariat, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, Order or direction mostly one which is in the nature of writ of MANDAMUS declaring the order in D.Dis.No.C6 1222/M/99 dt. 20-1-2005 of the Respondent as illegal, irregular unjustified, contrary to the A.P. (SC, ST & BCs) Regulation of Issue of Community Certificates Act, 1993 and Rules, 1997 and unsustainable and set aside the same holding that the petitioner belongs to Scheduled Tribe.

Counsel for the Petitioner: MR.P.VEERA REDDY

Counsel for the Respondents: GP FOR SOCIAL WELFARE

The Court, at the admission stage, made the following:

THE HON'BLE MR JUSTICE K.C. BHANU

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WRIT PETITION NO : 4698 of 2005

ORDER:

Challenging the order in D.Dis.No.C6.1222/M/99, dated 20-01-2005, issued by the 1st respondent-Collector and District Magistrate, Kurnool District, the present writ petition has been filed.

2. The grievance of the petitioner is that as per Section 5 of the Act, 1993, the 1st respondent may either *suo moto* or on written complaint by any person calling for the records and enquiry into the correctness of the Community Certificate and if he is of the opinion that such Certificate was obtained fraudulently, then he shall by notification cancel the Certificate after giving person concerned an opportunity of making a representation. But, in the present case, the 1st respondent did not issue any show cause notice to the petitioner but issued Form-VI notice calling upon him to attend the enquiry on 22-05-2004 and accordingly issued order under impugned. While so, the petitioner filed an appeal along with an application for stay of the operation of the order as provided under Section 7 (2) of the AP (S.C., S.T. & B.Cs) Regulation of Issue of Community Certificates Act, 1993 (for brevity 'the Act, 1993'), before the 4th respondent-Principal Secretary, Tribal Welfare Department, Government of Andhra Pradesh. But, the 4th respondent has not passed any orders on the appeal and stay application filed by the petitioner.

3. Admittedly, against the impugned order, the petitioner filed an appeal along with an application for stay of the operation of the order as proved under Section 7 (2) of the Act, 1993 before the 4th respondent and the same are said to be pending. Therefore, without entering into the merits of the case, since the main issue has to be decided by the 4th respondent, I feel it consider to dispose of the writ petition with a direction.

4. Accordingly, the writ petition is disposed of directing the 4th respondent to dispose of the appeal within two months from the date of receipt of a copy of this order. Till then, there shall be no further proceedings shall be initiated against the petitioner.

_____March 10, 2005

KVR

To

1 The Collector and District Magistrate, Kurnool District.
2 The Commissioner, Tribal Welfare Department,

Masab Tank, Hyderabad.
3 The Branch Manager, State Bank of India, Panyam,
Kurnool District.
4 The Principal Secretary, Government of Andhra

Pradesh, Tribal Welfare Department, D-Block,
Secretariat, Hyderabad.

5. 2 CCs to G.P. for Social Welfare, High Court Buildings,
Hyderabad.

6. 2 C.D. copies.